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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/647,192

08/25/2003

Douglas M. Dygert

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EXAMINER

MCDOWELL, SUZANNE E

ART UNIT

PAPER NUMBER

1732

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/30/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

✓

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/647,192		DYGERT, DOUGLAS M.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Suzanne E. McDowell		1732	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/8/04</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of Group 1, claims 1-7, in the reply filed on 10/16/06 is acknowledged.
2. Claims 8 and 9 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/16/06.

### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 2 contains the limitation "about 4.711", while the specification contains the limitation "4.71" (paragraph [0023]).
5. Claims 3 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are confusing because they claim a ratio, but then also claim "inches". A ratio would not have units of measure.

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith et al. (US Patent 6,228,317) in view of Nahill et al. (US Patent 7,138,082). Smith et al. teaches the basic method claimed as follows: placing a pre-heated preform (20) in a mold cavity (21) and blowing to form an intermediate article (23), which has a moil portion (24); and severing the moil portion (24) to provide the finished container (10). Regarding claim 1, Smith et al. further teaches that when the preform (20) is blown, it forms a threaded finish (17) having a wall of substantially uniform thickness which, in the preferred embodiment is in a range of from about 0.040 to about .45 inches (column 3, lines 63-64). Smith et al. does not teach that the wall thickness is 0.032-0.038 inches. Nahill et al. teaches a method of making a blow molded container with a threaded mouth (32) wherein the thickness of the threaded neck portion is 0.019 to 0.39 inches (column 4, lines 1-5). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use Nahill et al. to modify the method taught by Smith et al. in order to form a container with a thinner wall, which would save material, cost, processing time, etc. The motivation to use the teachings of Nahill et al. to modify the method taught by Smith et al. is that both are in the same field of endeavor and solve the same problem, that of forming blow molded containers with threaded finishes.

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Regarding claim 2, Smith et al. encompasses the ratio 4.711 by teaching a preform wall thickness of 5.1 to 5.3 mm (column 4, lines 63-65) and a threaded finish wall thickness of about 1.0 to 1.2 mm (column 3, lines 62-64).

Regarding claims 3 and 4, Smith et al. depicts a ratio of approximately .5 when comparing Figs. 1 and 2.

Regarding claim 5, Smith et al. teaches that the preform is preheated (column 3, lines 29-30).

Regarding claim 6, Smith et al. does not teach that the temperature of the mold surface is less than 60°F. It is generally well known in the art that mold temperatures are dependent upon the characteristics of the material, size of the preform, end use of the container, desire to prevent crystallization, etc. It would have been obvious to a person of ordinary skill in the art at the time of the invention to choose generally well known molding techniques, such as a mold temperature below 60°F, to modify the method taught by Smith et al. in order to form the desired finished product.

Regarding claim 7, Smith et al. appears to depict the claim limitations in Fig 4A.

### *Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne E. McDowell whose telephone number is (571) 272-1205. The examiner can normally be reached on Tuesday-Thursday 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Suzanne E. McDowell', with a stylized, cursive script.

Suzanne E. McDowell  
Primary Examiner  
Art Unit 1732

SEM  
January 3, 2007